

**Before the  
Federal Communications Commission  
Washington, D.C. 20554**

In the Matter of	)	
	)	
Telephone Number Portability	)	CC Docket No. 95-116
	)	
	)	

**COMMENTS  
of the  
ORGANIZATION FOR THE PROMOTION AND  
ADVANCEMENT OF SMALL TELECOMMUNICATIONS COMPANIES**

**I. INTRODUCTION**

The Organization for the Promotion and Advancement of Small Telecommunications Companies (OPASTCO) hereby submits these comments in response to the Federal Communications Commission's (FCC, Commission) proceeding on the North American Numbering Council's (NANC) report<sup>1</sup> examining the interval for completion of intermodal (wireline-to-wireless) local number portability (LNP).<sup>2</sup> OPASTCO is a national trade association representing more than 560 small incumbent local exchange carriers (ILECs) serving rural areas of the United States. Its members, which include both commercial companies and cooperatives, together serve

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<sup>1</sup> *NANC Report & Recommendation on Intermodal Porting Intervals*, Prepared for the NANC by the Intermodal Porting Interval Issue Management Group (fil. May 3, 2004) (NANC Report).

<sup>2</sup> *In the Matter of Telephone Number Portability*, CC Docket No. 95-116, Second Further Notice of Proposed Rulemaking, FCC 04-217 (rel. Sept. 16, 2004) (SFNPRM).

over 3.5 million customers. All OPASTCO members are rural telephone companies as defined in 47 U.S.C. §153(37). Nearly one half of OPASTCO's members provide some type of wireless service. OPASTCO holds a seat on the NANC and actively participates in that body's deliberations.

OPASTCO agrees with those who noted earlier in this proceeding that there is no pressing need to reduce the intermodal porting interval. However, should the Commission deem it necessary to act in this regard, then it should refrain from shortening the porting interval for rural wireline carriers due to the undue burdens that such a requirement would have on them, as noted within the NANC Report. An appropriately crafted exemption would be in the best interests of rural consumers, and would comply with the Commission's responsibilities under the Regulatory Flexibility Act.

## **II. THERE IS NO NEED TO SHORTEN THE EXISTING INTERMODAL PORTING INTERVAL**

Earlier in this proceeding, the majority of commenters indicated that there is no evidence that reducing the intermodal porting interval will benefit consumers or that the current four-day porting interval is somehow hindering intermodal portability.<sup>3</sup> This conclusion continues to be just as valid today. Moreover, at no point within its report does the NANC indicate that shortening the current porting interval is warranted at this

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<sup>3</sup> See, AT&T Comments in CC Docket No. 95-116 (fil. Jan. 20, 2004); BellSouth Comments in CC Docket No. 95-116 (fil. Jan. 20, 2004); Qwest Comments in CC Docket No. 95-116 (fil. Jan. 20, 2004); SBC Comments in CC Docket No. 95-116 (fil. Jan. 20, 2004); South Dakota LECs Comments in CC Docket No. 95-116 (fil. Jan. 20, 2004); TSTCI Comments in CC Docket No. 95-116 (fil. Jan. 20, 2004); USTA Comments in CC Docket No. 95-116 (fil. Jan. 20, 2004); Verizon Comments in CC Docket No. 95-116 (fil. Jan. 20, 2004). See also, Alabama Rural LECs Reply Comments in CC Docket No. 95-116 (fil. Feb. 4, 2004); AT&T Reply Comments in CC Docket No. 95-116 (fil. Feb. 4, 2004); OPASTCO Reply Comments in CC Docket No. 95-116 (fil. Feb. 4, 2004); Small Business Administration, Office of Advocacy Reply Comments in CC Docket No. 95-116 (fil. Feb. 4, 2004); SBC Reply Comments in CC Docket No. 95-116 (fil. Feb. 4, 2004); South Dakota LECs Reply Comments in CC Docket No. 95-116 (fil. Feb. 4, 2004); TSTCI Reply Comments in CC Docket No. 95-116 (fil. Feb. 4, 2004); Verizon Reply Comments in CC

time. In fact, as the SFNPRM points out, the NANC Report states that reducing the intermodal porting interval could actually increase the number of inadvertent ports.<sup>4</sup> Therefore, the Commission should allow the existing four-day intermodal porting standard to remain in place.

### **III. THE COMMISSION MUST BEAR IN MIND THE UNIQUE CIRCUMSTANCES FACED BY RURAL WIRELINE CARRIERS AS IT EVALUATES THE CURRENT INTERMODAL PORTING INTERVAL**

The Commission must consider the additional economic burden that would be placed on rural wireline carriers, should it insist upon a shorter porting interval. Small LECs already face significant financial impacts associated with LNP implementation, such as the hardware and software upgrades to their switching platforms and establishing the database connections necessary to support LNP queries.

Moreover, of the few rural carriers that have already become LNP-capable, most do not currently possess “customized, automated LNP support systems, due to the small amount of LNP activity” that they receive.<sup>5</sup> Therefore, as the NANC indicates, in order to support a shorter porting interval, rural wireline carriers “will need to change internal operating software, business practices, and implement mechanized systems and automated interfaces with other carriers.”<sup>6</sup> Certainly, the additional investment in these systems needed to support the relatively few ports that rural carriers can anticipate would not pass any rational cost-benefit test, and could create an economic hardship for rural carriers. This, in turn, could hinder other planned network upgrades and/or place upward pressure

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Docket No. 95-116 (fil. Feb. 4, 2004).

<sup>4</sup> See, SFNPRM, para. 12.

<sup>5</sup> South Dakota LECs Comments in CC Docket No. 95-116, p. 6 (fil. Jan. 20, 2004).

<sup>6</sup> NANC Report, p. 25.

on local rates.

For these reasons, should the Commission mandate an intermodal porting interval shorter than the existing four-day time frame, then it should specifically exempt all rural wireline carriers.<sup>7</sup> This could be accomplished either through: 1) an exemption for carriers that individually serve fewer than two percent of the nation's access lines (2 Percent Carriers), or 2) an exemption for rural telephone companies, as defined in the Telecommunications Act of 1996.<sup>8</sup> An appropriately crafted exemption would guard against any "economic impacts on rural telephone companies that may not be justified considering the size of their customer base, [or] customer density."<sup>9</sup>

Finally, the SFNPRM's Initial Regulatory Flexibility Analysis (IRFA) notes that any shortening of the intermodal porting interval "may impose new obligations and costs on carriers."<sup>10</sup> The IRFA also seeks comment on whether an exemption would be beneficial to small carriers.<sup>11</sup> As noted above, such an exemption would benefit small carriers. More importantly, it would benefit the customers they serve, since it would prevent customers from having to bear the disproportionate costs that a shortened porting interval would impose.<sup>12</sup> There is no evidence that customer demand for this capability is anywhere near sufficient to justify the disproportionate expense that rural carriers would undoubtedly incur.

#### **IV. CONCLUSION**

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<sup>7</sup> SFNPRM, para. 14.

<sup>8</sup> 47 U.S.C. §153(37).

<sup>9</sup> NANC Report, p. 25.

<sup>10</sup> SFNPRM, para. 32.

<sup>11</sup> *Ibid.*, para. 34.

<sup>12</sup> *See also*, Small Business Administration, Office of Advocacy Reply Comments in CC Docket No. 95-

The Commission should refrain from shortening the existing four-day intermodal porting interval, since a rational reason for doing so has yet to emerge. However, in the event the Commission decides to shorten the current porting interval, it should exempt rural wireline carriers in recognition of the disproportionate impact such a requirement would have on small companies. An exemption would be in the best interests of rural consumers, and would comport with the Commission's responsibilities under the Regulatory Flexibility Act.

Respectfully submitted,

**THE ORGANIZATION FOR THE PROMOTION AND  
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November 17, 2004

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116, p. 9 (fil. Feb. 4, 2004).

### **CERTIFICATE OF SERVICE**

I, Jeffrey W. Smith, hereby certify that a copy of the comments by the Organization for the Promotion and Advancement of Small Telecommunications Companies was sent by first class United States mail, postage prepaid, or via electronic mail on this, the 17<sup>th</sup> day of November, 2004, to those listed on the attached sheet.

By: /s/ Jeffrey W. Smith  
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**FCC 04-217**

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